

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

| | | |
|-------------------------------|---|-----------------|
| DIONNE HENDERSON, |) | Civil Action |
| |) | No. 12-cv-04265 |
| Petitioner, |) | |
| |) | |
| v. |) | |
| |) | |
| |) | |
| MR. JOHN P. DELANEY, |) | |
| Warden of CFCF; |) | |
| PAMELA P. DEMBE, |) | |
| Commonwealth of Pennsylvania |) | |
| Court of Common Pleas |) | |
| President; |) | |
| JUDGE GEORGE E. BRINKLEY; and |) | |
| DISTRICT ATTORNEY OFFICE OF |) | |
| PHILADELPHIA |) | |
| |) | |
| Respondents |) | |

O R D E R

NOW, this 30th day of September, 2014, upon
consideration of the following documents:

- (1) § 2241 Habeas Corpus Petition Form to be Used by Prisoners in Actions Under 28 U.S.C. § 2241 or in Actions Challenging Removal Proceedings, which petition is dated July 24, 2012 and was filed on July 26, 2012;¹
- (2) Response to Petition for Writ of Habeas Corpus, which response was filed February 19, 2013; and
- (3) Report and Recommendation of United States Magistrate Judge M. Faith Angell dated and filed April 12, 2013;

¹ Mr. Henderson's original petition for writ of habeas corpus was filed on July 26, 2012. However, the petition itself indicates that it was signed by petitioner on July 24, 2012. Thus, giving petitioner the benefit of the prison mailbox rule, (See Burns v. Morton, 134 F.3d 109 (3d Cir. 1998) and Rule 3(d) of the Rules Governing Section 2254 Cases in the United States District Courts), I consider July 24, 2012 the filing date of Mr. Henderson's original petition.

it appearing that as of the date of this Order no objections have been filed to the Report and Recommendation of Magistrate Judge Angell; it further appearing after review of this matter that Magistrate Judge Angell's Report and Recommendation correctly determined the legal and factual issues presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Angell's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that the petition for habeas corpus relief is denied and dismissed without prejudice to refile after exhausting his available state court remedies.

IT IS FURTHER ORDERED that because petitioner has not met statutory requirements to have his case heard, and no reasonable jurist could find this ruling debatable, and because petitioner fails to demonstrate denial of a constitutional right, a certificate of appealability is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall remove this matter from civil suspense.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge